

such fiduciary, and make a commencing inventory in accordance with § 40.523. However, where a fiduciary intends only to liquidate the business, qualification as a manufacturer of processed tobacco will not be required if such fiduciary promptly files with the appropriate TTB officer a written statement to that effect, in duplicate.

(b) *Transfer of ownership.* If a transfer in ownership of the business of a manufacturer of processed tobacco (including a change of any member of a partnership or association) is to be made, such manufacturer shall give notice, in writing, to the appropriate TTB officer, naming the proposed successor and the desired effective date of the transfer. The proposed successor shall, before commencing operations, qualify as a manufacturer of processed tobacco in accordance with this subpart. The manufacturer shall give notice of the transfer, and the proposed successor shall make application for permit, in ample time for examination and approval thereof before the desired date of such change. The predecessor shall make a concluding inventory and concluding report, in accordance with §§ 40.523 and 40.522, respectively, and surrender the permit with such inventory and report. The successor shall make a commencing inventory and first report, in accordance with §§ 40.523 and 40.522, respectively.

(c) *Change in officers, directors, or stockholders of a corporation.* Upon election or appointment (excluding successive reelection or reappointment) of any officer or director of a corporation operating the business of a manufacturer of processed tobacco, or upon any occurrence that results in a person acquiring ownership or control of more than ten percent in aggregate of the outstanding stock of such corporation, the manufacturer shall, within 30 days of such action, so notify the appropriate TTB officer in writing, giving the identity of such person. When there is any change in the authority furnished under § 40.494 for officers to act in behalf of the corporation, the manufacturer shall immediately so notify the appropriate TTB officer in writing.

(d) *Change in control of corporation.* When the issuance, sale, or transfer of the stock of a corporation operating as

a manufacturer of processed tobacco results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate manufacturer shall, within 30 days after the change occurs, make application on TTB F 5200.3 for a new permit. Otherwise, the present permit shall be automatically terminated at the expiration of such 30-day period, and the manufacturer shall dispose of all processed tobacco on hand, make a concluding inventory and concluding report, in accordance with the provisions of §§ 40.523 and 40.522, respectively, and surrender the permit with such inventory and report. If the application for a new permit is timely made, the present permit shall continue in effect pending final action with respect to such application.

§ 40.513 Change in location or address of factory.

Whenever a manufacturer of processed tobacco intends to relocate its factory, the manufacturer shall, before commencing operations at the new location, make application on TTB F 5200.16 for, and obtain, an amended permit. Whenever any change occurs in the address, but not the location, of the factory of a manufacturer of processed tobacco as a result of action of local authorities, the manufacturer shall, within 30 days of such change, make application on TTB F 5200.16 for an amended permit.

[T.D. TTB-78, 74 FR 29410, June 22, 2009, as amended by T.D. TTB-80, 74 FR 37552, July 29, 2009]

OPERATIONS BY MANUFACTURERS OF PROCESSED TOBACCO

§ 40.521 Record of tobacco and processed tobacco.

(a) Every manufacturer of processed tobacco and every manufacturer of tobacco products required to obtain authorization to engage in another business within the factory under §§ 40.47(b) and 40.72(b) of this part must keep records of operations and transactions that show the total quantity of all:

(1) Processed tobacco on hand at the beginning of each month;

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(2) In the case of a manufacturer of tobacco products, processed tobacco used in the manufacture of tobacco products during each month;

(3) Processed tobacco received, together with the date of receipt and the name and address of the person from whom it was received;

(4) Processed tobacco removed from the factory for shipment to a person holding a TTB permit as a manufacturer of processed tobacco, as a manufacturer of tobacco products, as an importer of processed tobacco, or as an export warehouse proprietor, together with the date of removal and the name and address of the person to whom shipped or delivered;

(5) Processed tobacco removed from the factory for shipment, other than for export, to a person not holding a TTB permit as a manufacturer of processed tobacco, as a manufacturer of tobacco products, as an importer of processed tobacco, or as an export warehouse proprietor, together with the date of removal;

(6) Processed tobacco removed from the factory for export, together with the date of removal;

(7) Processed tobacco removed for any purpose not referred to in paragraphs (a)(4), (5), (6), and (7) of this section, together with the date of removal;

(8) Processed tobacco lost, together with the date and other circumstances of the loss;

(9) Processed tobacco destroyed (either on factory premise or removed from factory premises for destruction), together with the date and other circumstances of the destruction;

(10) Processed tobacco transferred between buildings that are covered under the same permit but that are not located in the same city, town, village, or State; and

(11) Tobacco (unprocessed) on hand at the beginning of each month and used in the manufacture of tobacco products, lost, destroyed, or removed during each month.

(b) Any manufacturer of processed tobacco and any manufacturer of tobacco products that are required to obtain authorization to engage in another business within the factory under §§ 40.47(b) and 40.72(b) and that engage

in removals of processed tobacco described in paragraph (a)(5) or (a)(6) of this section must also keep records that show the following information about each such removal:

(1) The full name and business address (including city and State) of the purchaser (if there is a purchaser) and the full name and business address of the recipient, or personal address if the purchaser or recipient is not a business;

(2) The full name, business address (including city and State), and driver's license number of the person picking up the processed tobacco for delivery;

(3) The license number of the vehicle in which the processed tobacco is removed from the manufacturer's premises;

(4) The street address of the destination (not including any in-transit stops) of the processed tobacco; and

(5) The quantity of processed tobacco in the shipment;

(c) The entries in the records of removals required under this section must be made for each day by the close of the business day following the day on which the removal occurs. There is no particular format prescribed for the records required under this section (and commercial records may be used) although the required information must be readily ascertainable from the records kept. In the case of a removal under paragraph (a)(5) or (a)(6) of this section that involves shipment by a common carrier, the appropriate TTB officer may approve an alternate method or procedure pursuant to §§ 40.45 or 40.531 through which the manufacturer may keep records regarding the common carrier and its means of tracking (including pick up and delivery) of the shipment in lieu of the information required by paragraphs (b)(2) and (b)(3) of this section.

[T.D. TTB-104, 77 FR 37303, June 21, 2012]

§ 40.522 Reports.

(a) *General.* Every manufacturer of processed tobacco must prepare a monthly report on TTB F 5250.1 in accordance with the instructions for the form. The report must be prepared at the times specified in this section and must be prepared whether or not any operations or transactions occurred